

<sup>105</sup>  
~~106~~ (New) The device of claim <sup>83</sup>~~84~~, wherein the receptacle comprises a flexible-walled receptacle.

<sup>106</sup>  
~~107~~ (New) The device of claim <sup>83</sup>~~84~~, wherein the receptacle further comprises a bellows.

<sup>107</sup>  
~~108~~ (New) The device of claim <sup>83</sup>~~84~~, wherein the receptacle comprises a case having a bag therein, wherein the case is configured to cause an increase in pressure in the bag.

#### IN THE DRAWINGS:

Subject to the approval of the Examiner, please amend the drawings as set forth in the Request for Approval of Drawing Changes submitted herewith.

#### REMARKS

Claims 1-10 and 12-108 are pending in the application. By this Amendment, the specification has been amended to more clearly describe various exemplary embodiments of the invention. In addition, claims 1-3, 6, 12, 23, 30, 40, 50-54, 57, 60-62, 71, 79, and 83 have been amended and claims 84-108 have been newly added. No new matter has been entered.

As an initial matter, Applicant wishes to express sincere appreciation to the Examiner for the courtesy extended to Applicant's representatives during the personal interview held on July 9, 2003. At the interview, various objections and rejections

relating to the drawings and/or specification were discussed. The following remarks reflect subject matter discussed during the interview.

In the Office Action, the drawings were objected to under 37 C.F.R. § 1.84(p)(5) because reference characters "53" and "96" were not mentioned in the specification. In response, Applicant has amended paragraphs [057] and [064] to include reference characters "53" and "96" to designate "a compressible wall" and "bridges," respectively. Thus, Applicant respectfully requests reconsideration and withdrawal of the objections to the drawings.

The drawings were also objected to under 37 C.F.R. § 1.83(a) because the Examiner asserted that "(A) the applicator element being formed as a foam of a plastic material, as called for by claims 35 and 36, and (B) the flexible-walled receptacle, as called for by claims 42 and 73, must be shown or the features canceled from the claims."

Although Applicant does not necessarily agree with this objection (because the figures provide schematic illustrations of exemplary embodiments of the subject matter claimed and the specification is sufficiently clear in explaining the nature of the claimed subject matter so that one of ordinary skill in the art would understand it without any additional, detailed drawings), Applicant proposes changes to the drawings in the Request for Approval of Drawing Changes filed herewith. In particular, with respect to item (A) above, Applicant proposes adding new Fig. 1A to show that an applicator element 10' may comprise a foam formed of a plastic material. With respect to item (B) above, Applicant proposes amending Fig. 1 by adding a phantom wall (i.e., depicted with two dotted lines and designated by reference character 2a') to show that the

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receptacle may comprise a flexible-walled receptacle. Applicant has also amended the specification to reflect these changes. Thus, Applicant respectfully requests approval of the proposed drawing changes and reconsideration and withdrawal of the objections to the drawings.

The abstract of the disclosure was objected to because: "(A) it fails to state specifically that which is new in the art; (B) it uses legal phraseology often used in patent claims such as 'comprising', etc.; (C) it uses phrases which can be implied such as 'The invention relates'; (D) --a-- should be inserted after 'contain' on line 2; and (E) --the-- should be inserted after 'with' on line 6." Although Applicant does not necessarily agree with this objection, Applicant has amended the abstract to make changes commensurate with those suggested by the Examiner. Thus, Applicant respectfully requests reconsideration and withdrawal of this objection to the abstract.

The disclosure was objected to due to asserted minor informalities. The minor informalities asserted by the Examiner were that: "(A) it contains no section headings; (B) the title of the invention should be placed at the top of the first page of the specification; and (C) it contains numbered paragraphs rather than line numbering which is used to enter amendments."

With respect to item (A) above, although Applicant does not necessarily agree with the Examiner's assertion (i.e., because neither the M.P.E.P. nor any other source indicates that headings in the specification are always required), Applicant has amended the specification to include appropriate headings, as suggested by the Examiner during the interview. Thus, Applicant respectfully requests reconsideration and withdrawal of this ground of objection to the disclosure.

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With respect to item (B) above, Applicant respectfully disagrees with the Examiner's assertion. 37 C.F.R. § 1.72 specifically sets forth that "[u]nless the title is supplied in an application data sheet (§ 1.76), the title of the invention should appear as a heading on the first page of the specification" (emphasis supplied by Applicant). Applicant believes that objection (B) is improper because an application data sheet including the title was filed along with the application on November 7, 2001. Moreover, the title of the present application appears as a heading on the title page, which is on the first page of the specification. Thus, Applicant respectfully requests reconsideration and withdrawal of this ground of objection to the disclosure.

With respect to item (C) above, Applicant respectfully disagrees with the Examiner's assertion because neither the M.P.E.P. nor any other source indicates that the disclosure must include line numbering rather than numbered paragraphs for entering amendments. Not only is such line numbering not a requirement, but supplying paragraph numbering to each paragraph in the disclosure is the preferred method of text identification recommended by the Patent Office, as set forth in 37 C.F.R. § 1.52(b)(6) where it states that "the paragraphs of the specification, other than in the claims or abstract, may be numbered ... so as to unambiguously identify each paragraph ... (e.g., [0001])." Thus, Applicant believes that this ground of objection is improper and respectfully requests reconsideration and withdrawal of this ground of objection to the disclosure.

In paragraphs 10 and 11 of the Office Action, the Examiner kindly noted minor informalities present in the specification and the claims. Applicant takes this opportunity to thank the Examiner for her thorough review of this application and for her

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identification of those minor informalities present in the application. In response, Applicant has amended the specification and the claims to correct those minor informalities, as suggested by the Examiner. In addition to the minor informalities noted by the Examiner, Applicant has further reviewed the application and corrected other minor informalities. Since the minor informalities in the claims and their intended wording would have been readily apparent, the claim changes to correct informalities are not believed to narrow the claim scope.

The Office Action contains a number of rejections under 35 U.S.C. § 112, first paragraph, based on an alleged lack of enabling disclosure in the specification. In particular, the Examiner asserted that the specification fails to describe:

(A) "a closure element configured to close the housing in a substantially leak-proof manner when the applicator element is received at least partially in the housing," as recited in claim 1 (see paragraph 13 of the Office Action);

(B) "the device [being] configured to allow a reduction ... from a first volume to a second volume smaller than the first volume" and "the reduction from the first volume to the second volume [generating] pressure inside the receptacle for causing product to flow into the housing via the dip tube," as recited in claims 2 and 53 (see paragraph 14 of the Office Action);

(C) "end wall [being] planar," as recited in claim 6 and 57 (see paragraph 15 of the Office Action);

(D) "at least one of the closure element and the housing [defining] a removable unit configured to be associated with the receptacle to fill the unit with the product" and

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"the applicator element [being] received within the removable unit," as recited in claim 23 (see paragraph 16 of the Office Action);

(E) "the housing [defining] a body and the closure element [defining] a handle, the body and the handle cooperating to define an inside space in which the applicator element is contained," as recited in claim 24 (see paragraph 17 of the Office Action);

(F) "the handle and the body [being] connected by screw fastening," as recited in claim 26 (see paragraph 18 of the Office Action);

(G) "at least one of the handle and the body of the removable unit [comprising] a sealing skirt," as recited in claim 27 (see paragraph 19 of the Office Action);

(H) "a portion configured to removably receive at least part of the removable unit" and "the portion [being] located on the receptacle," as recited in claim 29 (see paragraph 20 of the Office Action);

(I) "a second closure element for closing the portion when the removable unit is not received by the portion," as recited in claim 30 (see paragraph 21 of the Office Action);

(J) "the portion [comprising] a sleeve having an open end through which said at least a part of the removable unit passes and another end placed in flow communication with the variable inside volume via the dip tube," as recited in claim 32 (see paragraph 22 of the Office Action);

(K) "a first portion and a second portion configured to cooperate together to define a substantially leak-proof enclosure for the applicator element," as recited in claim 50 (see paragraph 23 of the Office Action);

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A

(L) "at least one of the first portion and the second portion [comprising] a sealing skirt," as recited in claim 63 (see paragraph 24 of the Office Action); and

(M) "a third portion located on the receptacle" and "the removable unit [being] configured to be removably associated with the third portion," as recited in claim 65 (see paragraph 25 of the Office Action).

Although Applicant does not necessarily agree with the Examiner's assertions above (i.e., because the specification contains sufficient disclosure so as to enable one of ordinary skill in the art to make and/or use the claimed invention), Applicant has amended the specification (e.g., paragraphs [048], [050], [060], [061], [062], and [063]) or claims (e.g., claims 6 and 57) to obviate this rejection under 35 U.S.C. § 112, first paragraph. For example, regarding item (A), in addition to paragraph [011] at page 3 of the specification, which contains substantially identical language to that recited in claim 1, Applicant has amended paragraph [048] to include explicit mention of closing a housing in a substantially leak-proof manner when an applicator element is received at least partially in the housing. Regarding item (B), in addition to paragraph [012] at page 4 of the specification, which contains substantially identical language as that of claims 2 and 53, Applicant has amended paragraph [050] to explicitly mention a reduction in volume from a first volume to a second volume smaller than the first volume, and the reduction from the first volume to the second volume generating pressure inside a receptacle for causing product to flow into a housing via the dip tube. Similarly, with respect to items (C) - (M), appropriate portions of the specification have been amended to supply more explicit description of the claimed subject matter. The originally filed disclosure (e.g., claims, written description, and drawings) fully supports these changes.

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Thus, Applicant respectfully requests reconsideration and withdrawal of these grounds of rejection under 35 U.S.C. § 112, first paragraph.

Claims 1-49, 51, 54, 58, 59, 79, and 80 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, in paragraphs 28, 29, and 30-33 of the Office Action, the Examiner asserted that there is lack of proper antecedent basis for each of the following terms: (a) "the bottom" in claim 1, line 7; (b) "the level of product" in claim 3, lines 2 and 4, and in claim 54, lines 2 and 4; (c) "the applicator" in claim 12, line 1; (d) "the portion" in claim 30, line 2; and (e) "the application element" in claim 51, line 2, and in claim 79, line 1.

With respect to items (c)-(e), Applicant has amended claims 12, 30, 51, and 79, without narrowing their scope, to supply proper antecedent basis for all the terms therein. Thus, Applicant respectfully requests reconsideration and withdrawal of this ground of rejection under 35 U.S.C. § 112, second paragraph.

With respect to items (a) and (b), Applicant respectfully disagrees with the Examiner's assertion. While the Examiner appears to suggest that the terms "the bottom" and "the level of product" should be "a bottom" and "a level of product," respectfully, Applicant respectfully submits that inherent components recited, such as "the bottom" and "the level," have proper antecedent basis in the recitation of the components themselves. M.P.E.P. § 2173.05(e) clearly states that the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. Ex parte Porter, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992). For example, the limitation "the outer surface of said sphere" would not require

an antecedent recitation that the sphere has an outer surface. Therefore, Applicant believes that this ground of rejection is improper and respectfully requests reconsideration and withdrawal of the rejection of claims 1, 3, and 54 under 35 U.S.C. § 112, second paragraph.

In addition, in paragraphs 34 and 35 of the Office Action, the Examiner asserted that "it is unclear as to how the product recited on line 1 [of claims 3, 40, 54, and 71] relates to the product recited in claims 1 and 50." Claims 1 and 50 now positively recite a product. Applicant has revised claims 3, 40, 54, and 71 to ensure that they clearly refer to the prior recited product. Thus, Applicant respectfully requests reconsideration and withdrawal of this ground of rejection under 35 U.S.C. § 112, second paragraph.

Claims 1-6, 8, 9, 33, 39-42, 48, 50, 51, 53, 55-57, 59, 60, 63, 64, 71-73, and 79 were rejected under 35 U.S.C. § 102(b) as being anticipated by Deakers (U.S. Patent No. 2,716,250). In addition, claims 1-6, 8, 9, 33, 35, 36, 40-42, and 48 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schwartzman (U.S. Patent No. 3,390,940).

Applicant respectfully note that claims 11, 23, and 52 were not subject to any of Section 102 rejections based on Deakers and Schwartzman. Therefore, to obviate those rejections, each of independent claims 1 and 50 has been amended to include the subject matter of claim 11. Consequently, those rejections are rendered moot by these claim amendments. In addition, claims 23 and 52 have been rewritten in independent form including all the limitations of original claim from which they depended. Thus, Applicant respectfully requests reconsideration and withdrawal of those rejections under 35 U.S.C. § 102(b).

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Claims 1, 3-6, 8, 23-27, 29, 31, 32, 50-52, 54-60, 65-69, 79, and 80 were rejected under 35 U.S.C. § 102(b) as being anticipated by Amen (U.S. Patent No. 2,767,417). As discussed below, Applicant respectfully submits that this rejection should be withdrawn.

Each of independent claims 1 and 50 has been amended to positively recite a "cosmetic or care product." As is abundantly clear, Amen lacks disclosure of that positively recited subject matter, because Amen discloses a dispenser for lubricant used for the joints of well drilling tool strings.

For at least this reason, independent claims 1 and 50 are patentably distinguishable from Amen. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. § 102(b) based on Amen.

With respect to claim 23, Applicant submits that Amen does not disclose or suggest an applicator element received within a removable unit. The Examiner asserted "Amen further discloses that the closure element 33 defines a removable unit configured to be associated with the receptacle C to fill the unit with the product and that the applicator 29 is received within the removable unit." Applicant respectfully disagrees with this ground of rejection of claim 23. Element 33 of Amen is a top plate for covering the receptacle 21. The top plate 33 does not define any space "to fill the unit with the product." Nor is it configured to receive an applicator 29 within the unit, as asserted by the Examiner. Instead, the top plate 33 is a flat circular plate to which the applicator 29 is merely attached. Therefore, the top plate 33 itself cannot define a removable unit capable of receiving an applicator element therewithin. Therefore,

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Applicant respectfully requests reconsideration and withdrawal of this ground of rejection.

With respect to claim 52, Amen lacks disclosure or suggestion of first and second portions cooperating to define a removable unit. The Examiner asserted that "the first portion 21 and the second portion 33 cooperate to define a removable unit (note Fig. 6)." Applicant respectfully disagrees with this ground of rejection because the receptacle 21 (i.e., asserted first portion) within which an applicator 29 is received is not part of a removable unit. Instead, only the top plate 33 is removable relative to the receptacle. Therefore, the top plate 33 and the receptacle 29 cannot define a removable unit. Thus, Applicant respectfully requests reconsideration and withdrawal of this ground of rejection.

With respect to new claims 84-108, Applicant respectfully submits that none of the cited references, taken either alone or in combination, teaches or suggests the subject matter of those claims. For example, claim 84 recites, among other things, a "cosmetic or care product" and a device being "configured to enable the housing to be in flow communication with the product contained in the receptacle when the opening of the housing is closed by the closure element." Each of claims 85-108 depends from allowable independent claim 84. Consequently, claims 85-108 should also be allowable at least by virtue of their dependency from allowable claim 85.

Applicant respectfully requests the reconsideration of this application, the withdrawal of all the outstanding objections and rejections, and the allowance of claims 1-10 and 12-108.

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Regarding the prior election of species requirement, the Examiner asserted that claims 7, 10, 12-22, 34, 37, 38, 43-47, 49, 61, 62, 70, 74-78, and 81-83 are drawn to non-elected species. Applicant respectfully disagrees at least partially with the Examiner's apparent characterization of the elected species of Figs. 8 and 9, and the subsequent claim withdrawal. In particular, Applicant submits that at least claims 12, 13, 16, 34, 37, 38, 49, and 70 are also readable on the elected species of Figs. 8 and 9, along with claims 1-6, 8, 9, 11, 23-33, 35, 36, 39-42, 48, 50-60, 63-69, 71-73, 79 and 80, because Figs. 8 and 9 clearly show the subject matter recited those claims. Therefore, Applicant respectfully requests that the Examiner rejoin at least claims 12, 13, 16, 34, 37, 38, 49, and 70 to this application for further consideration.

Regarding the new claims, at least claims 84-89, 91-93, 96, and 100-106 are "readable" on the previously elected species of Figs. 8 and 9.

The Office Action contains a number of statements and characterizations regarding the claims and the related art. Applicant declines to subscribe automatically to any statement or characterization in the Office Action, regardless of whether it is addressed above.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
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Dated: July 14, 2003

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## APPENDIX TO THE AMENDMENTS

### SPECIFICATION CHANGES:

Paragraph [013] starting at page 4, line 6:

-- [013] In an optional aspect, the product application device may comprise a receptacle having a variable inside volume configured to contain product, an applicator element, and a dip tube configured to extend to the bottom of the receptacle. The device may further comprise a first portion and a second portion configured to cooperate together to define a substantially leak-proof enclosure for the applicator element. Optionally, at least one of the first portion and a second portion may comprise a sealing skirt. The dip tube may also be configured to enable the enclosure to be in flow communication with product flowing from the receptacle. --

Paragraph [014] starting at page 4, line 13:

-- [014] In one aspect, the first portion may comprise a housing for receiving at least part of the application element, and the second portion may comprise a closure element configured to close the housing. At least one of the closure element and the housing may define a removable unit configured to be associated with the receptacle to fill the unit with the product, and an applicator element may be received within the removable unit. The housing may define a body and the closure element may define a handle. The body and the handle may cooperate to define an inside space in which the applicator element may be contained. --

Paragraph [015] starting at page 4, line 16:

-- [015] According to another optional aspect, the first and second portions may cooperate to define a removable unit. The device may also comprise a third portion

located on the receptacle, wherein the removable unit may be configured to be removably associated with (e.g., received by) the third portion. In addition, the dip tube may be connected to the third portion. --

Paragraph [016] starting at page 4, line 21:

-- [016] In an optional aspect, the device may further comprise a closure element for closing the third portion when the removable unit is not associated with (e.g., not received by) the third portion. This third portion may be configured to be in flow communication with the variable inside volume via the dip tube. The third portion may optionally comprise a sleeve having an open end through which at least a part of the removable unit passes and another end placed in flow communication with the variable inside volume via the dip tube. In an alternative aspect, the third portion may comprise a protrusion for mating with a mating opening located at an end of the removable unit. --

Paragraph [027] starting at page 7, line 5:

-- [027] The handle and the body of the removable unit may co-operate (e.g., be connected), for example, by screw fastening. In addition, at least one of the handle and the body of the removable unit may include a sealing skirt. --

Paragraph [046] starting at page 9, line 18:

-- [046] Fig. 1 shows a packaging and applicator device 1 of the invention, comprising a receptacle 2 having a tubular wall 2a about an axis X and a bottom end wall 2b. The tubular wall 2a may be made of flexible material so as to be elastically deformable. It is thus possible to reduce the inside volume of the receptacle 2 by squeezing the tubular wall [2a], e.g. between finger and thumb, as shown schematically at 2a'. --

Paragraph [047] bridging page 9 and 10:

-- [047] The receptacle 2 may contain a product P, e.g. a liquid having very low viscosity such as a perfume. The top of the receptacle 2 has a neck 5 defining a housing 7 for receiving an applicator element 10. The applicator element 10 is secured to a handle 11 that also constitutes a cap for substantially closing the neck 5. In [the example described] an exemplary embodiment, the applicator element [10] 10' comprises a foam material, as shown in Fig. 1A. --

Paragraph [048] starting at page 10, line 4:

-- [048] The handle 11 (e.g., closure element, second portion, etc.) has a sealing skirt 12 suitable for bearing in substantially leak-proof manner against the inside surface of the neck 5 (e.g., first portion), thereby closing the housing 7 in a substantially leak-proof manner when the applicator element 10 is received at least partially in the housing 7. The handle 11 also has an outer skirt 13 provided with a thread suitable for screwing onto a complementary thread formed on the outside surface of the neck 5. --

Paragraph [050] starting at page 10, line 12:

-- [050] In the example of Fig. 1, a substantial portion of the bottom surface of the applicator element 10 comes in contact with the end wall 20. To use the device 1 with the receptacle in a head-up position, the user may squeeze the tubular wall, as shown at [2a] 2a', so as to reduce the variable inside volume of the receptacle 2 from a first volume to a second volume smaller than the first volume, [thereby] wherein the reduction from the first volume to the second volume generates pressure inside the receptacle for causing product P to penetrate (e.g., flow) into the housing 7 via the dip tube 22. --

Paragraph [057] starting at page 11, line 22:

-- [057] It would not go beyond the ambit of the present invention, however, for the applicator element to remain secured to the receptacle. By way of example, Fig. 7 shows a device 50 comprising a receptacle 51 having a compressible wall 53 and provided at its top end with a neck 52 on which a support 55 is fixed by snap fastening.--

Paragraph [060] starting at page 12, line 16:

-- [060] The applicator element according to any of the embodiments disclosed herein may form part of a removable unit, suitable for being refilled periodically by means of a receptacle provided with a [housing] neck and a dip tube like those described above. For example, at least one of a closure element (e.g., a handle) and a housing (e.g., a body) may define a removable unit (e.g., within which the applicator element may be received) configured to be associated with the receptacle to fill the unit with product. Figs. 8 and 9 show such a removable unit 85. The unit is intended to be refilled by means of a receptacle 71 having a compressible wall, and having a neck 72 in which a portion 73 (e.g., [an] insert, sleeve, third portion, etc.) [73] is fixed to define a [housing] space suitable for removably receiving at least part of the removable unit 85 when it is to be refilled. --

Paragraph [061] starting at page 12, line 23:

-- [061] The insert 73 has a hinged lid 75 (e.g., second closure element) secured thereto for the purpose of closing the [housing] space 74 (e.g., portion, insert, etc.) when the removable unit 85 is absent (e.g., is not received by the portion). The end wall 76 of the insert 73 (e.g., sleeve) has an end-piece 77 for fixing a dip tube 78. An annular setback 81 is formed in the end wall 76.--

Paragraph [062] starting at page 13, line 3:

-- [062] The removable unit 85 comprises a bottom portion 86 defining a housing (e.g., body) for receiving at least a part of an applicator element 106 and a top portion 87 (e.g., closure element, handle, etc.) that are assembled (e.g., connected) together by screw fastening. The bottom portion 86 and the top portion 87 cooperate to define an inside space (e.g., an enclosure) in which the applicator element 106 may be contained. The removable unit [86] 85 houses [an] the applicator element 106 that may be fixed to one end of an assembly skirt 105 of the top portion 87. The applicator element 106 and the top portion 87 may constitute an applicator member that can be separated from the bottom portion 86, for example, at the time of application. The top portion 87 may then serve as a handle.--

Paragraph [063] starting at page 13, line 9:

-- [063] At least one of the [The] top portion 87 (e.g., closure element, handle, second portion, etc.) and the bottom portion 86 (e.g., body, first portion, etc.) of the removable unit 85 has a sealing skirt 100 suitable for bearing in a substantially leak-proof manner against the bottom portion 86 when the removable unit is closed, as shown in Fig. 9. The bottom portion 86 has an end wall 91 pierced in its center by an orifice 89. An annular lip 88 extends downwards around the orifice 89 so as to bear in a substantially leak-proof manner against the inside edge of the annular setback 81 of the end wall 76, thus enabling a substantially leak-proof communication between the end-piece 77 and the orifice 89. --

Paragraph [064] starting at page 13, line 19:

-- [064] A check valve 90 made of, for example, an elastomer material overmolded on the end wall 91 enables the orifice 89 to be substantially closed when, for example,

the removable unit 85 is not being refilled. The check valve 90 comprises a central portion forming a shutter that is connected by bridges 96 of elastically deformable material to a peripheral portion 97 that is secured to the end wall 91.--

Paragraph [069] starting at page 14, line 22:

-- [069] Fig. 12 shows an example of a removable unit 230 having a feature whereby it includes an application element [230] 231 that is carried by an element 232 connected via a film hinge 233 to a body 234 of the removable unit. The body 234 defines a cavity 235, for example, a generally concave cavity. The cavity 235 may be configured for receiving the element 231 when the lid 232 is in place on the body 234 to substantially close the cavity 235. By way of example, the lid 232 may include a sealing lip 236 suitable for pressing in a substantially leak-proof manner against the body 234. The wall 239 defining the bottom of the cavity 235 may define an orifice 237 that is suitable as a mating opening for mating with a portion of a receptacle. While the removable unit 230 is not being filled with product, the orifice 237 may be substantially closed, for example, by a check valve 238.--

**ABSTRACT CHANGES:**

-- [The invention relates to a] A product application device [comprising] includes a receptacle having a variable inside volume configured to contain a product, an applicator element, and a dip tube configured to extend to the bottom of the receptacle. The device further [comprises] includes a first portion and a second portion configured to cooperate together to define a substantially leak-proof enclosure for the applicator element. The dip tube is configured to enable the enclosure to be in flow communication with the product flowing from the receptacle.--

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**CLAIMS CHANGES:**

1. (Amended) A product application device, comprising:
  - a receptacle having a variable inside volume configured to contain a product;
  - a cosmetic or care product contained in the receptacle;
  - an applicator element;
  - a housing for receiving at least part of the applicator element;
  - a closure element configured to close the housing in a substantially leak-proof manner when the applicator element is received at least partially in the housing; and
  - a dip tube configured to extend substantially to the bottom of the receptacle, wherein the applicator element is removable from the housing, and
  - wherein the dip tube is configured to enable the housing to be in flow communication with product flowing from the receptacle.
2. (Amended) The device of claim 1, wherein the device is configured to allow a reduction in the variable inside volume of the receptacle from a first volume to a second volume smaller than the first volume, and
  - wherein the reduction from the first volume to the second volume generates pressure inside the receptacle for causing the product to flow into the housing via the dip tube.
3. (Amended) The device of claim 1, [comprising product contained in the receptacle,] wherein the level of the product contained in the receptacle is selected so that, prior to first use, an end of the dip tube configured to extend substantially to the bottom of the receptacle lies above the level of the product when the receptacle is turned upside-down.
6. (Amended) The device of claim 5, wherein the end wall is substantially planar.

12. (Amended) The device of claim 1, wherein the applicator element is fixed to the closure element.

23. (Currently Amended) [The device of claim 1,] A product application device, comprising:

a receptacle having a variable inside volume configured to contain a product;

an applicator element;

a housing for receiving at least part of the applicator element;

a closure element configured to close the housing in a substantially leak-proof manner when the applicator element is received at least partially in the housing; and

a dip tube configured to extend substantially to the bottom of the receptacle,

wherein the dip tube is configured to enable the housing to be in flow communication with product flowing from the receptacle,

wherein at least one of the closure element and the housing defines a removable unit configured to be associated with the receptacle to fill the unit with the product, and

wherein the applicator element is received within the removable unit.

30. (Amended) The device of claim [28] 29, further comprising a second closure element for closing the portion when the removable unit is not received by the portion.

40. (Amended) The device of claim 1, [further comprising] wherein the product contained in the receptacle[, wherein the product] comprises a cosmetic product.

50. (Amended) A product application device, comprising:

a receptacle having a variable inside volume configured to contain a product;

a cosmetic or care product contained in the receptacle;

an applicator element;

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a first portion and a second portion configured to cooperate together to define a substantially leak-proof enclosure for the applicator element; and

a dip tube configured to extend to the bottom of the receptacle,

wherein the applicator element is removable from the housing, and

wherein the dip tube is configured to enable the enclosure to be in flow communication with product flowing from the receptacle.

51. (Amended) The device of claim 50, wherein the first portion comprises a housing for receiving at least part of the [application] applicator element, and the second portion comprises a closure element configured to close the housing.

52. (Amended) [The device of claim 50,] A product application device,  
comprising:

a receptacle having a variable inside volume configured to contain a product;

an applicator element;

a first portion and a second portion configured to cooperate together to define a substantially leak-proof enclosure for the applicator element; and

a dip tube configured to extend to the bottom of the receptacle,

wherein the dip tube is configured to enable the enclosure to be in flow

communication with product flowing from the receptacle, and

wherein the first and second portions cooperate to define a removable unit.

53. (Amended) The device of claim 50, wherein the device is configured to allow a reduction in the variable inside volume of the receptacle from a first volume to a second volume smaller than the first volume, and

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wherein the reduction from the first volume to the second volume generates pressure inside the receptacle for causing the product to flow into the enclosure via the dip tube.

54. (Amended) The device of claim 50, [comprising product contained in the receptacle,] wherein the level of the product contained in the receptacle is selected so that, prior to first use, an end of the dip tube configured to extend substantially to the bottom of the receptacle lies above the level of product when the receptacle is turned upside-down.

57. (Amended) The device of claim 56, wherein the end wall is substantially planar.

60. (Amended) The device of claim 50, wherein the first and second portion portions are connected by screw fastening.

61. (Amended) The device of claim 50, wherein the first and second [portion] portions are connected by snap fastening.

62. (Amended) The device of claim 50, wherein the first and second [portion] portions are connected by a hinge.

71. (Amended) The device of claim 50, [further comprising] wherein the product contained in the receptacle[, wherein the product] comprises a cosmetic product.

79. (Amended) The device of claim 50, wherein the [application] applicator element is fixed to one of the first portion and the second portion.

83. (Amended) The system of claim 82, comprising a product in the additional receptacle [receptacles], wherein each of the receptacles contains a differing product.

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